

III. REMARKS

In the Office Action, claims 1-3, and 7-22 were rejected under 35 U.S.C. 103 as being unpatentable over Tuomela (US Pat. Applic. Pub. 2001/0031633) in view of Tsuyoshi (Patent Abstract of Japan, Publication 2000-236391), and claims 4-6 were rejected under 35 U.S.C. 103 as being unpatentable over Tuomela in view of Tsuyoshi and Silverman (US 6,035,031) for reasons set forth in the Office Action. The Applicant's prior arguments were said to be moot in view of new grounds of rejection.

With respect to the rejections under 35 U.S.C. 103, various ones of the claims are amended and the following argument is presented to distinguish the claimed subject matter from the teachings of the cited art, considered individually and in combination, thereby to overcome the rejections and to show the presence of allowable subject matter in the claims.

In the previous response, there was discussion of a feature of the presently claimed subject matter relating to an attempt (disclosed in the present specification on page 6 at line 19) by the caller's terminal to contact an activity status server. The server provides the calling party with information useful in enabling the calling party to make a selection among various options as to how to proceed for initiating communication with the called party. The contacting of the activity status server precedes the establishment of communication between the caller and the receiving party, as is clear from the text at line 18 which discusses options that may be taken if the desired communication cannot be established immediately.

In the rejection of most of the claims, including all of the independent claims 1, 4, 9, 14 and 16, the examiner relies on the combination of the teachings of the primary reference, Tuomela, in view of Tsuyoshi.

As was noted in the previous response, Tuomela relates to the use of an answering machine at a called party. Therefore, the teachings of Tuomela do not come into play

until after a communication has been established between the calling party and the answering machine of Tuomela. Tuomela teaches [0003] that a telephone caller may require more information as to the disposition of the party being called, which information might not be provided by the prerecorded outgoing message. The solution to this problem, according to Tuomela [0008], utilizes steps of storing a current context of the called party (which may be determined by various listed means), determining if an automatic call answering function is enabled, and transferring information to the caller without ringing the phone of the called party. In [0017] Tuomela provides an example of information to be given by the answering machine to the caller, namely: a predefined outgoing message might state that the called party is in a meeting and would prefer the caller to leave a message or to call back later. Communication to the caller might be via an SMS text message [0018]. This enables the caller [0022] to determine a next course of action. Any one of a plurality of possible actions [0024-33], including putting the call through now, may be taken in response to a listing of the actions on a WAP page.

The examiner (bottom of page 3 of the present Action) acknowledges that Tuomela does not disclose that, before establishment of the communication between the calling party and the receiving party, an attempt by the calling party to initiate the communication results in a connection of the calling party to an activity log from the server.

To provide the information that is not disclosed by Tuomela, the examiner relies on Tsuyoshi to teach a situation wherein, prior to dialing the receiving party, the caller may access a source of data to obtain information about the state of the receiving party. This solves the problem addressed by Tsuyoshi [0002, 0003, 0004] of attempting a useless call if the receiving party will be unable to respond.

However, the data-bank service provided by Tsuyoshi functions independently of the communication system by which the calling party attempts to reach the receiving party. Thus, a user of the communication system has the option of calling the receiving party,

and if the attempt at calling is not successful, the user can call the data-bank service of Tsuyoshi to find out what is the problem. Or, alternatively, the user of the communication system might call first the data-bank service to find out if the receiving party is in a proper state for answering the call. However, there is no cooperation between the communication system and the data-bank service in the sense that an attempted calling of the receiving part is automatically diverted first to the data-bank service. Nor, is there any suggestion in either of Tuomela or Tsuyoshi to combine the communication system with the data bank system.

The examiner states (Action, middle of page 4) that it would have been obvious to combine the teachings of Tuomela and Tsuyoshi to arrive at the claimed invention, and that a motivation for such combination would have been to inform the calling device of the state of the called subscriber, as related to availability. This statement suggests that the examiner might be relying on hindsight to build equipment that has not been suggested by the cited references, and does not indicate whether the resulting subject matter would automatically switch an attempted call first to the activity status server prior to switching the call to the receiving party.

In contrast, in the presently claimed subject matter, there is cooperation between the communication system and the activity status server. The specification (top of page 3) teaches that the cellular network comprises an activity status server for storing a user-specific log. The specification teaches further (page 3 at lines 16-19) that a person may call or send a message to a member of the group by dialing the number. In response to the dialing of the number, the file arrangement sends to the cellular phone of the calling party a message describing the current status of the called party. From this teaching of the specification, it is clear that the call has been diverted to the activity status server. Subsequently, after visualizing the activity status (line 20), the caller may act (line 23) as he sees fit. The caller can direct the call to go through to the receiving party (Fig. 3, block 38), or he can abandon the attempt to call the receiving party (Fig. 3, block 37).

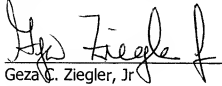
In order to emphasize the foregoing distinction between the presently claimed subject matter and the teachings of the cited art, the independent claims have been amended as follows. In the method of claim 1, the amended text states that: before setting up an electrical communications connection between a calling party of said group of parties and a receiving party of said group of parties, there is a setting up of an electrical communications connection between the calling party and the server in response to an attempted communication by the calling party to the receiving party. In addition, claim 1 also recites (in the following paragraph) that: an attempt by the calling party to initiate the communication results in a connection of the calling party to an activity log. In claim 10, there is an amended passage stating that: an attempt by the calling party to initiate the communication results in a connection of the calling party to an activity log provided by the server prior to an establishment of a communications connection with the receiving party. Corresponding amendments are made to the other independent claims. The claims depending from respective ones of the independent claims are believed to be allowable in view of the amendments to the independent claims.

In view of the foregoing argument, it is believed that the foregoing amendments to the independent claims overcome the grounds of rejection based on Tuomela considered individually and in combination with Tsuyoshi, as well as with Silverman, so as to provide allowable subject matter in the claims. It is noted that Silverman is employed to show only one feature, and does not alter the foregoing argument advanced against the primary reference Tuomela in combination with Tsuyoshi.

For all of the foregoing reasons, it is respectfully submitted that all of the claims now present in the application are clearly novel and patentable over the prior art of record, and are in proper form for allowance. Accordingly, favorable reconsideration and allowance is respectfully requested. Should any unresolved issues remain, the Examiner is invited to call Applicants' attorney at the telephone number indicated below.

The Commissioner is hereby authorized to charge payment for any fees associated with this communication or credit any over payment to Deposit Account No. 16-1350.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Geza C. Ziegler, Jr.", written over a horizontal line.

Geza C. Ziegler, Jr.
Reg. No. 44,004

8 OCTOBER 2008
Date

Perman & Green, LLP
425 Post Road
Fairfield, CT 06824
(203) 259-1800
Customer No.: 2512